

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

**BILLY WILLIAMS,**

**Petitioner,**

v.

**ACTION NO. 2:13-cv-227**

**HAROLD W. CLARKE, Director,  
Virginia Department of Corrections,**

**Respondent.**

**FINAL ORDER**

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, and the Respondent's Motion to Dismiss. In his Petition, the *pro se* Petitioner challenges the constitutionality of his 1998 conviction in the Circuit Court for the City of Richmond for first-degree murder and use of a firearm in the commission of a felony, as a result of which he was sentenced to a term of life imprisonment plus five years in the Virginia state penitentiary.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation entered on February 12, 2014, the Magistrate Judge recommended the Motion to Dismiss be granted and the Petition be denied and dismissed without prejudice to the Petitioner's right to re-file such a petition after he receives authorization from the United States Court of Appeals for the Fourth Circuit. The parties were advised of their right to file written objections to the Report and Recommendation. The Court has received no objections from either party, and the time to file such objections has expired.

The Court, having heard no objections, does hereby **ADOPT** and **APPROVE** the Report and Recommendation, ECF No. 26, in its entirety as the Court's own opinion. Accordingly, the Court **GRANTS** the Respondent's Motion to Dismiss, ECF No. 20.<sup>1</sup> It is, therefore, **ORDERED** that the Petition, ECF No. 1, is **DENIED** and **DISMISSED WITHOUT PREJUDICE** to the Petitioner's right to re-file a subsequent petition, after he receives the requisite authorization from the United States Court of Appeals for the Fourth Circuit. It is further **ORDERED** that judgment be entered in favor of the Respondent.

The Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of the Court at the Walter E. Hoffman United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date judgment is entered. Because the Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b)(1), the Court declines to issue a certificate of appealability. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner and counsel of record for the Respondent.

It is so **ORDERED**.

  
Raymond A. Jackson  
United States District Judge  
Raymond A. Jackson  
United States District Judge

Norfolk, Virginia

Date: *March 21, 2014*

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<sup>1</sup> As discussed by the Magistrate Judge, ECF No. 26 at 1 n.1, because both ECF Nos. 14 and 20 are identical, this order also disposes of ECF No. 14 in the Respondent's favor.